

SUBSTITUTE ORDINANCE NO. BL2020-187

An ordinance to amend Titles 5, 6, and 17 of the Metropolitan Code, Zoning Regulations, pertaining to Short Term Rental Properties (Proposal No. 2020Z-006TX-001).

WHEREAS, short-term rental of homes can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy; and

WHEREAS, short-term rental of homes can provide homeowners an opportunity to hold property in difficult economic circumstances or as an investment; and

WHEREAS, hotel taxes from short term rental of homes can be used to promote travel and tourism and to support the local tourism industry; and

WHEREAS, the needs of long-term residents should be balanced with the allowance of short-term rentals; and

WHEREAS, to further this goal, the appellate procedures in Nashville's Short Term Rental Property ordinance should be transferred from Title 17 to Title 6 and reorganized for greater clarity.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Title 17 of the Metropolitan Code is hereby amended by deleting Sections 17.16.070.U and Section 17.16.250.E in their entirety.

Section 2. That Title 17 of the Metropolitan Code is hereby amended by adding the following:

17.16.250.E – Short Term Rental Property Owner-Occupied. STRP owner-occupied is permitted as an accessory use in all zoning districts that allow residential use excluding NS districts provided a permit has been issued for operation of the property as an STRP pursuant to this section. In IWD, IR and IG, STRP is permitted as an accessory use to a multi-family use associated with Manufacturing, Artisan use.

1. All STRP owner-occupied activity must be permitted in accordance with Metropolitan Code § 6.28.030.

17.16.070.U – Short Term Rental Property Not Owner-Occupied. STRP not owner-occupied is permitted with conditions (PC) in MUN and MUN-A, MUL and MUL-A, MUG and MUG-A, MUI and MUI-A, OG, OR20 through OR40-A, ORI and ORI-A, CN and CN-A, CL and CL-A, CS and CS-A, CA, CF, DTC North, DTC South, DTC-West, DTC Central, SCN, SCC and SCR.

1. All STRP not owner-occupied activity must be permitted in accordance with Metropolitan Code § 6.28.030.

2. Single-family and one and two-family zoning districts, all property improvements shall comply with the Chapter 17.12 (District Bulk Regulations) for single-family or two-family uses, depending on the number of units on the property.

Section 3. That Title 6 of the Metropolitan Code is hereby amended by adding the following:

6.28.030 – Short Term Rental Property Permit

A. "Short term rental property (STRP)—Owner-occupied" means an owner-occupied residential dwelling unit containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests.

1. STRP owner-occupied is permitted as an accessory use in all zoning districts that allow residential use excluding NS districts provided a permit has been issued for operation of the property as an STRP pursuant to this section. In IWD, IR and IG, STRP is permitted as an accessory use to a multi-family use associated with Manufacturing, Artisan use.

2. Requirements and restrictions.

a. No person or entity shall operate an STRP or advertise a residential property for use as an STRP without the owner of the property first having obtained an STRP permit issued by the department of codes administration in accordance with the provisions of this chapter.

b. Any advertising or description of an STRP on any internet website must: (a) prominently display the permit number for the STRP unit; or (b) include an image of the permit, or a link to an image of the permit, in which the permit number is legible.

c. To qualify for an STRP—owner-occupied permit, the owner of the property shall permanently reside in the STRP or, for conforming uses in single-family and one and two-family zoning districts, the owner shall permanently reside in a residential unit on the same lot. The owner of the property: (1) must be a natural person or persons; (2) may not be a limited liability entity, including without limitation a corporation or limited liability company; and (3) may not be an unincorporated entity, including without limitation a partnership, joint venture, or trust.

d. Only one permit shall be issued per lot in single-family and two-family zoning districts.

e. Ownership of two-family dwellings.

i The property ownership of the two-family units cannot be divided.

ii The two-family units shall be owned by the same person and one of the two units shall be the primary residence of the owner.

iii Prior to the issuance of a permit, an instrument shall be prepared and recorded with the register's office covenanting that the two-family dwelling may only be used under the conditions listed above as long as the STRP—Owner-occupied permit is valid.

f. Notwithstanding any provision herein to the contrary, any residential dwelling created by or contained within a horizontal property regime pursuant to Tenn. Code Ann. § 66-27-101, et seq. shall not be limited or otherwise restricted by subsections (d) or (e) of this section if a permit was issued on or before July 1, 2019.

3. Application.

a. STRP permit applications shall be valid for 90 calendar days from the date filed and shall expire if the application process has not been completed within that time.

b. The STRP permit application shall verify by affidavit that all of the information being provided is true and accurate and the application shall include the following information:

i The name, telephone number, address, and email address of the owner and of a person or business ("responsible party") residing or located within 25 miles of the STRP that is responsible for addressing all maintenance and safety concerns;

ii Proof of insurance evidencing homeowner's fire, hazard, and liability insurance. Liability coverage shall have limits of not less than one million dollars per occurrence.

iii Proof of written notification to the owner of each adjacent property prior to filing the application. For each such adjacent property, proof of written notification shall be: (a) a signature of an owner; (b) a signed receipt of U.S. registered or certified mail addressed to an owner; or (c) notice from the U.S. Postal Service that registered or certified mail to an owner was refused or not timely accepted.

iv For owners applying for an owner-occupied permit, two documents giving proof of owner-occupation shall be provided. Each document must be current and show the owner's name and address matching that of the property to be utilized for short term rental. Acceptable documentation includes: (a) Tennessee Driver's license; (b) other valid State of Tennessee identification card; (c) Davidson County voter registration card; (d) current employer verification of residential address or a letter from the employer on company letterhead with original signature. (If the employer does not have letterhead, the signature of the employer must be notarized.); (e) current automobile, life or health insurance policy. (Wallet Cards not accepted); (f) paycheck/check stub, (g) work ID or badge, (h) Internal Revenue Service tax reporting W-2 form; or (i) a bank statement.

v A statement that the applicant has confirmed that operating the proposed STRP would not violate any homeowners association agreement or bylaws, condominium agreement, co-op agreement, lease agreement, covenants, easements, codes and restrictions or any other agreement governing and limiting the use of the proposed STRP property.

vi Proof of payment of all taxes due, including property taxes and, for permit renewals, all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.

4. Signage. Any sign, as defined in Section 17.32.030.B of the Metropolitan Code, on a property used for an STRP shall be governed by the provision of Chapter 17.32, Sign Regulations, of the Metropolitan Code.

5. Regulations.

a. All STRP occupants shall abide by all applicable noise restrictions and regulations regarding the public peace and welfare contained in the Metropolitan Code, and all applicable waste management provisions of Chapter 10.20 of the Metropolitan Code.

b. The STRP shall meet all applicable requirements of the state and local building and fire safety codes, including, but not limited to, having approved smoke alarms meeting Underwriters Laboratory (UL) 217 standards installed as follows:

i In all sleeping areas.

ii In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.

iii In each story within the sleeping unit, including basements.

c. Parking shall be provided as required by Section 17.20.030 of the Metropolitan Code. No recreational vehicles, buses, or trailers shall be visible on the street or property in conjunction with the STRP use.

d. No food shall be prepared for or served to the transient by the permit holder.

e. The principal renter of an STRP unit shall be at least 21 years of age.

f. Maximum occupancy. The maximum number of occupants permitted on an STRP property at any one time shall not exceed more than twice the number of sleeping rooms plus four. Simultaneous rental to more than one party under separate contracts shall not be allowed. The occupancy maximum shall be conspicuously posted within the STRP unit. Advertising an STRP for more occupants than allowed by this regulation shall be grounds for revocation of the permit.

g. The STRP owner shall not receive any compensation or remuneration to permit occupancy of an STRP for a period of less than twenty-four hours. The maximum stay for any guest shall be thirty consecutive days.

h. The name and telephone number of the local responsible party shall be conspicuously posted within the STRP unit. The responsible party shall answer calls 24 hours a day, seven days a week for the duration of each short term rental period to address problems associated with the STRP.

i. Expiration and renewal of permit.

i An STRP permit shall expire 365 days after it is issued unless it is renewed prior to its expiration.

ii For STRP units that have received no documented complaints to metro codes, police, or public works during the most recent permit period, a renewal application may be submitted by mail, online, or in person according to regulations promulgated by the metro codes department. All such renewal applications shall include:

(1) The payment of a renewal fee set by the zoning administrator; and

(2) A statement verified by affidavit that:

(a) Includes all of the information required in an application under Section 6.28.030.A.3; and

(b) The STRP continues to be in full compliance with all applicable laws, including the payment of all applicable taxes.

iii For an STRP that has received no documented complaints to metro codes, police, or public works during the most recent permit period, a 30 calendar day grace period for renewal after the expiration of the STRP permit may be allowed by the zoning administrator upon a showing by the owner of a reasonable explanation other than neglect or mistake for the delay.

iv For an STRP with documented complaints to metro codes, police, or public works during the most recent permit period, no grace period shall be allowed and all permit renewal applications shall be submitted timely. The renewal application shall be submitted with a statement verified by affidavit that includes all of the information required in an application under Section 6.28.030.A.3.

j. The permit holder shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.

k. An STRP permit shall not be transferred or assigned to another individual, person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to operate an STRP on the property.

l. Denial or Revocation of Permit.

i Upon the filing of a complaint regarding an STRP permit, the department of codes administration shall notify the permit holder in writing or by e-mail of such complaint. All complainants shall be notified that any false complaint made against a short-term rental unit provider are punishable as perjury under Tenn. Code Ann. § 39-16-702.

ii If the zoning administrator determines, based on reasonably reliable information that the zoning administrator has obtained including without limitation public records or reports, records of regularly conducted activity, or a direct or online statement against a person's own interest, that three violations of generally applicable provisions of the Metropolitan Code of Laws have occurred as a direct result of the operation of the short-term rental unit, the permit to operate an STRP may be revoked if no appeal rights remain.

iii Before revoking any permit, the department of codes administration shall give the permit holder 15 days written notice of the alleged violation(s) against him/her.

iv Any denial or revocation of an STRP permit may be appealed to the Short Term Rental Appeals Board pursuant to Section 6.28.035.B of the Metropolitan Code.

v Once an STRP permit has been revoked, no new permit shall be issued to the applicant for the same property for a period of one year.

vi The penalty for operating a short term rental property without a permit shall be:

(1) A fifty dollar fine as imposed by a court of competent jurisdiction. Each day of operation without a permit shall constitute a separate offense.

(2) Upon a determination by the zoning administrator or the zoning administrator's designee that a short term rental property has operated without having obtained a permit, there shall be a waiting period of one year from the date of such determination by the zoning administrator or designee for the property to become eligible for an STRP permit. Upon a determination by the zoning administrator or the zoning administrator's designee that a short term rental property has operated without having renewed a previously issued permit, there shall be a waiting period of six months from the date of such determination by the zoning administrator or designee for the property to become eligible for an STRP permit.

(3) Upon a finding of a court of competent jurisdiction that a short term rental property has operated without a permit, in addition to any other relief granted, there shall be a waiting period of three years from the date of such finding for the property to become eligible for an STRP permit.

B. "Short term rental property (STRP)—Not owner-occupied" means a residential dwelling unit that is not owner-occupied containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests.

1. STRP not owner-occupied is permitted with conditions (PC) in MUN and MUN-A, MUL and MUL-A, MUG and MUG-A, MUI and MUI-A, OG, OR20 through OR40-A, ORI and ORI-A, CN and CN-A, CL and CL-A, CS and CS-A, CA, CF, DTC North, DTC South, DTC-West, DTC Central, SCN, SCC and SCR.

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ii Proof of insurance evidencing homeowner's fire, hazard, and liability insurance. Liability coverage shall have limits of not less than one million dollars per occurrence.

iii Proof of written notification to the owner of each adjacent property prior to filing the application. For each such adjacent property, proof of written notification shall be: (a) a signature of an owner; (b) a signed receipt of U.S. registered or certified mail addressed to an owner; or (c) notice from the U.S. Postal Service that registered or certified mail to an owner was refused or not timely accepted.

iv A statement that the applicant has confirmed that operating the proposed STRP would not violate any homeowners association agreement or bylaws, condominium agreement, co-op agreement, lease agreement, covenants, easements, codes and restrictions or any other agreement governing and limiting the use of the proposed STRP property.

v Proof of payment of all taxes due, including property taxes and, for permit renewals, all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.

4. Signage. Any sign, as defined in Section 17.32.030.B of this Zoning Code, on a property used for an STRP shall be governed by the provision of Chapter 17.32, Sign Regulations, of the Metropolitan Code.

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b. The STRP shall meet all applicable requirements of the state and local building and fire safety codes, including, but not limited to, having approved smoke alarms meeting Underwriters Laboratory (UL) 217 standards installed as follows:

i In all sleeping areas.

ii In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.

iii In each story within the sleeping unit, including basements.

c. Parking shall be provided as required by Section 17.20.030. No recreational vehicles, buses, or trailers shall be visible on the street or property in conjunction with the STRP use.

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(1) includes all of the information required in an application under Section 6.28.030.B.3; and

(2) the STRP continues to be in full compliance with all applicable laws, including the payment of all applicable taxes.

iii For an STRP that has received no documented complaints to Metro Codes, police, or public works during the most recent permit period, a 30 calendar day grace period for renewal after the expiration of the STRP permit may be allowed by the zoning administrator upon a showing by the owner of a reasonable explanation other than neglect or mistake for the delay.

iv For an STRP with documented complaints to Metro Codes, police, or public works during the most recent permit period, no grace period shall be allowed and all permit renewal applications shall be submitted timely. The renewal application shall be submitted with a statement verified by affidavit that includes all of the information required in an application under Section 6.28.030.B.3.

j. The permit holder shall be responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by state law or the Metropolitan Code.

k. An STRP permit shall not be transferred or assigned to another individual, person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to operate an STRP on the property.

I. Denial or Revocation of Permit.

i Upon the filing of a complaint regarding an STRP permit, the department of codes administration shall notify the permit holder in writing or by e-mail of such complaint. All complainants shall be notified that any false complaint made against a short-term rental unit provider are punishable as perjury under Tenn. Code Ann. § 39-16-702.

ii If the zoning administrator determines, based on reasonably reliable information that the zoning administrator has obtained including without limitation public records or reports, records of regularly conducted activity, or a direct or online statement against a person's own interest, that three violations of generally applicable provisions of the Metropolitan Code of Laws have occurred as a direct result of the operation of the short-term rental unit, the permit to operate an STRP may be revoked if no appeal rights remain.

iii Before revoking any permit, the department of codes administration shall give the permit holder 15 days written notice of the alleged violation(s) against him/her.

iv Any denial or revocation of an STRP permit may be appealed to the Short Term Rental Appeals Board as an administrative appeal pursuant to Section 6.28.035.B. of the Metropolitan Code.

v Once an STRP permit has been revoked, no new permit shall be issued to the applicant for the same property for a period of one year from the date of the revocation.

vi The penalty for operating a short term rental property without a permit shall be:

(1) A fifty dollar fine as imposed by a court of competent jurisdiction. Each day of operation without a permit shall constitute a separate offense.

(2) Upon a determination by the zoning administrator or the zoning administrator's designee that a short term rental property has operated without having obtained a permit, there shall be a waiting period of one year from the date of such determination by the zoning administrator or designee for the property to become eligible for an STRP permit. Upon a determination by the zoning administrator or the zoning administrator's designee that a short term rental property has operated without having renewed a previously issued permit, there shall be a waiting period of six months from the date of such determination by the zoning administrator or designee for the property to become eligible for an STRP permit.

(3) Upon a finding of a court of competent jurisdiction that a short term rental property has operated without a permit, in addition to any other relief granted, there shall be a waiting period of three years from the date of such finding for the property to become eligible for an STRP permit.

Section 4. That Title 6 of the Metropolitan Code is hereby amended by adding the following:

6.28.035 – Short Term Rental Appeals Board

A. A short term rental (STR) appeal board is created and designated the metropolitan short term rental appeals board.

B. The board shall be staffed by the Department of Codes Administration and shall hear and decide appeals from decisions made by the zoning administrator regarding STR permits whereby it is alleged in writing that the zoning administrator is in error or acted arbitrarily. The board shall have jurisdiction to uphold, reverse, or modify in whole or in part the zoning administrator's decision regarding permit issuance or revocation for all permits eligible for review.

C. The board shall consist of seven members. One member of the seven shall be a member of the Metropolitan Council and shall be selected by that body from its membership to serve as a member of the board for a term of two years. The remaining six members shall be appointed by the mayor and confirmed by a majority vote of the Metropolitan Council and shall each serve terms of four years or until their successors are appointed. Of the remaining six members at least one shall be an attorney.

D. Of the six members first appointed, two shall serve for a term of two years, two for a term of three years, and two for a term of four years.

E. Board members shall annually elect a chair and a vice-chair from among their membership. The vice-chair is authorized to act in the place of the chair and in the same capacity as the chair when the chair is unavailable.

F. The board shall hold regular meetings each month at a time fixed by the board and may hold such special meetings as may be necessary.

G. The attendance of four members of the board shall be required to constitute a quorum for the purpose of transacting business. The concurring vote of at least a majority of those members present at the meeting shall be necessary to uphold, reverse, or modify in whole or in part the decision of the zoning administrator.

H. The board shall promulgate such bylaws, rules and/or regulations not inconsistent with state law, the Metropolitan Charter, or any ordinance as it deems appropriate, for the filing and pursuit of appeals under this chapter (including appropriate limitations periods), for the course of hearings held before them, and for the conducting of its business generally.

Section 5. That Title 5 of the Metropolitan Code is hereby amended by deleting the phrase, "short term rental properties regulated under Title 17" wherein it appears in Section 5.12.060.A(4), and substituting with the phrase, "short term rental properties regulated under Title 6".

Section 56. This Ordinance shall take effect from and after its final passage, and such change shall be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Russ Pulley

Courtney Johnston
Members of Council